IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2652 OF 1991

Kalyan Citizens Education Society
Murbad Road, Kalyan,
Dist.:Thane - 421 304 ... Petitioner

V/s.

1) Miss Sunita Vilas Funde
(Sou.Sunita Sainath Dhakane)
Keshavji Mauji Chawl
Behind Hindi High School
Joshi Marg - Kalyan, Thane

2) State of Maharashtra
Through: Dy.Director of Education
Nasik Region, LIC Building, Nasik ... Respondents

Mr.L.M. Nerlekar for Petitioner
Mr.Neel Helkar h/f Mr.R.S. Apte for Respondent No.1

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **AUGUST 12, 2005**

ORAL JUDGMENT:

. Respondent No.1 was employed with the Petitioner college at Kalyan. An advertisement was issued by the Petitioner inviting applications from Scheduled Caste/Scheduled Tribe/Nomadic Tribe and other candidates for the reserved post of a teacher in their junior college for the academic year 1990-91. A suitable candidate from the reserved category was selected. However, he did not accept the appointment. Respondent

No.1 who had also applied for the post was appointed as a lecturer in physics against the reserved post as a stop gap arrangement as the time available for advertising for the post was too short. The Respondent No.1 was appointed on a purely temporary basis for the academic year 1990-91. Thereafter, another advertisement was issued by the Petitioner calling for applications for the post of lecturer. The Petitioner on finding a suitable candidate informed Respondent No.1 that her services were no longer required from 20.4.1991, although she was entitled to vacation salary. The Respondent was informed that her appointment being purely on a temporary basis, she was not liable to be continued in service beyond the academic year 1990-91. Aggrieved by the termination of her services, Respondent No.1 filed an appeal in the School Tribunal.

2. The School Tribunal has found that her termination of services was illegal and has accordingly set aside the notice of termination dated 14.3.1991. The Respondent has been awarded reinstatement with continuity of service and full backwages within 40 days from the date of the order.

3. The appointment of Respondent No.1 being purely temporary, the School Tribunal was clearly wrong in

reinstating her in service. The Selection Committee had found her unsuitable for appointment when her application was considered as she did not belong to the reserved category. The appointment letter issued to her on 24.7.1990 clearly stipulates that the appointment was purely temporary for the academic year 1990-91 upto 20.4.1991. This being the position, the Tribunal was in error in granting reinstatement. Furthermore, according to the Petitioner, the post advertised was for a candidate belonging to SC/ST and NT categories whereas Respondent No.1 was an O.B.C. candidate.

4. In such circumstances, the order of the School Tribunal is set aside. Writ Petition is made absolute. No order as to costs.